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February 22, 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TW-A35
Washington, D.C. 20554

RE: Reply of GTE in Support of its Petition for Reconsideration of the Commission's Tenth Report and Order

Dear Secretary Salas:

Enclosed is a copy of the Reply of GTE in Support of its Petition for Reconsideration of the Commission's Tenth Report and Order that was filed with the Federal Communications Commission on Tuesday, February 22, 2000.

Very truly yours,

CHRISTOPHER S. HUTHER

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Enclosure

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Forward-Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160

REPLY OF GTE IN SUPPORT OF ITS PETITION FOR RECONSIDERATION OF THE COMMISSION'S TENTH REPORT AND ORDER

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February 22, 2000

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Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
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Forward-Looking Mechanism for High Cost Support for Non-Rural LECs	)	CC Docket No. 97-160

REPLY OF GTE IN SUPPORT OF ITS PETITION FOR RECONSIDERATION OF THE COMMISSION'S TENTH REPORT AND ORDER

GTE Service Corporation and its affiliated domestic telephone operating companies[1] (collectively, "GTE"), pursuant to 47 C.F.R. § 1.429, respectfully submit this Reply in further support of its Petition for Reconsideration of the Tenth Report and Order issued by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned docket.[2]

I. NO PARTY HAS SHOWN THAT GTE HAD A MEANINGFUL OPPORTUNITY TO COMMENT ON INPUTS TO THE FCC MODEL.

AT&T and MCI WorldCom's respective oppositions to GTE's Petition contain no substantive response to GTE's criticisms of the procedures that led to both the adoption

[1] The GTE affiliated domestic telephone operating companies are GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota Incorporated, GTE West Incorporated, and Contel of the South Incorporated.

[2] In the Matter of Federal-State Joint Board on Universal Service, In the Matter of Forward-Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket Nos. 96-45, 97-160, *Tenth Report and Order*, FCC 99-304 (rel. Nov. 2, 1999). This docket -- CC Docket Nos. 96-45 and 97-160 -- is hereafter referred to and cited as the "Universal Service Cost Model Docket."

of the "synthesis" model platform ("FCC Model" or "Model"),[3] and to the input values to that Model. AT&T and MCI WorldCom's oppositions simply describe the inherently flawed process in which GTE and other parties were forced to "comment" on proposed input values based on outdated, incomplete, error-ridden and ever-changing versions of the FCC Model.[4] GTE's point, which AT&T echoed throughout its own Petition for Reconsideration, is that those procedures denied interested parties a meaningful opportunity to comment on the proposed input values.[5]

Due process required the Commission to provide the final version of the Model before the end of the notice and comment period on inputs, so that interested parties could analyze whether the proposed values were reasonable and produced accurate results when run in the final Model.[6] It also required the Commission to notify interested parties of all proposed inputs, including the HAI Model default values that were not listed in the Commission's Notice of Proposed Rulemaking, but were then adopted without explanation. The Commission had never previously indicated its intention to use those HAI Model default inputs. Similarly, the Commission never notified interested parties that it intended to use PNR Associates, Inc.'s ("PNR's") 1995/1996 location data with 1998 line counts. Moreover, the Commission never alerted interested parties of its

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[3] Universal Service Cost Model Docket, *Fifth Report and Order*, FCC 98-279 (rel. Oct. 28, 1998).

[4] Universal Service Cost Model Docket, *Opposition of AT&T Corp. to Petitions for Reconsideration* (Feb. 7, 2000) at pp. 5-8 ("AT&T Opposition"); Universal Service Cost Model Docket, *Comments of MCI WorldCom, Inc.* (Feb. 7, 2000) at p. 12 ("MCI Opposition").

[5] Universal Service Cost Model Docket, *AT&T's Petition for Reconsideration* (Jan. 3, 2000) at pp. 5, 9, 17 ("AT&T PFR").

[6] Universal Service Cost Model Docket, *Comments of GTE Service Corporation and Its Affiliated Domestic Telephone Operating Companies in Response to Further Notice of Proposed Rulemaking* (July 23, 1999) at pp. 3-9 ("GTE Comments").

intention to use the TFI study, which, as the study's authors have pointed out, was ultimately misused.[7]

As noted above, AT&T made a similar "due process" argument in its own Petition for Reconsideration, wherein it asked the Commission to reject certain inputs because the Commission's procedures deprived AT&T of a "meaningful opportunity to provide comment" on the new values.[8] AT&T's sudden "about face" and present attempt to defend the Commission's flawed approach -- by arguing that GTE had the chance in its Petition to comment on the final Model platform and inputs after the release of the Order -- lacks credibility.[9] AT&T's disingenuous argument merits little response. The law and the Commission's own regulations require notice and a meaningful opportunity to comment before the agency acts, not afterward.[10]

II. AT&T AND MCI WORLDCOM HAVE NOT REFUTED GTE'S SUBSTANTIVE ARGUMENTS.

AT&T and MCI WorldCom misstate GTE's position when addressing GTE's argument that flawed data and methodologies underlie many of the Commission's input values. GTE made a lengthy showing in its Petition that the NRRI data were fundamentally flawed because they lacked the cost causative relationship that is necessary for reliable cost predictions. The methods by which the Commission derived

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[7] Universal Service Cost Model Docket, *GTE's Petition for Reconsideration of the Commission's Tenth Report and Order* (Jan. 3, 2000) ("Petition") at Attachment B.

[8] AT&T Opposition at pp. 5, 9, 17.

[9] AT&T's statement that the Commission did not significantly modify the FCC Model between June 2, 1999, and November 2, 1999, is false. AT&T Opposition at p. 6. The file entitled "history.doc" reveals that numerous and significant changes were made to the loop module of the FCC Model on October 21, 1999, following the close of the input comment period. Moreover, on January 20, 2000, almost three months after the Order was issued, the Commission corrected certain recently discovered "errors" and posted new Model results that caused the federal universal service fund to drop by approximately 20%, from $255 million to $210 million.

[10] *See* 47 C.F.R. §§1.413 and 1.415; *Chocolate Manufacturers Ass'n v. Block*, 755 F.2d 1098, 1104 (4th Cir. 1985); *National Black Media Coalition v. FCC*, 791 F.2d 1016, 1023 (2d Cir. 1986).

input values from the NRRI data were similarly flawed. Therefore, the corresponding inputs as a whole are inherently unreliable.[11]

GTE explained, for instance, that the NRRI data contained mismatched cable and structure costs and explanatory variables; that it was improper to manipulate the NRRI data; that the NRRI data-based inputs understated the overall costs and distorted the relative costs; and, that there were serious mistakes in the Commission's econometric analysis.[12] GTE also exposed serious defects in the Commission's justification for the inputs for pole costs, fill factors, and expenses.[13] That is, the Commission attempted to justify its input values based on reasoning that is wrong and often inconsistent. AT&T ignores these problems and claims that what GTE demands -- "perfect data" -- can never be met. However, GTE has never argued, nor even suggested, that the inputs must be derived from "perfect data," nor that the inputs be based on a single data source. GTE merely contends that the Commission should not derive input values from obviously flawed data and methodologies, especially when those flaws can be fixed, as GTE has recommended. Instead, the Commission should use consistent reasoning, appropriate methodologies and reliable data that are representative of non-rural LECs' forward-looking cost characteristics. Regardless of the quality of the underlying data, if fundamental errors are made in the statistical techniques used to draw inferences from the data -- as has occurred here -- the results will be unreliable. AT&T and MCI WorldCom agree.[14]

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[11] Universal Service Cost Model Docket, *GTE's Opposition to AT&T's Petition for Reconsideration of the Commission's Tenth Report and Order* (Feb. 7, 2000) at pp. 8-21 ("GTE Opposition").

[12] *Id.* at pp. 9-14.

[13] *Id.* at pp. 15-21.

[14] Universal Service Cost Model Docket, *Reply Comments of AT&T Corp. and MCI WorldCom, Inc.* (Aug. 6, 1999) at p. 15.

AT&T makes no attempt to refute GTE's specific claims about the data, methodological flaws and erroneous reasoning contained in the Order. Instead, AT&T quotes and summarizes portions of the Order itself. For example, in response to GTE's statement that the FCC erred in averaging ordinal (or categorical) variables, AT&T simply restates the Order wherein the FCC disavowed responsibility for the errors because they are based upon the HAI Model database. Thus, AT&T avoids altogether many of the issues raised in GTE's Petition. AT&T took the same non-responsive approach concerning the flawed Huber adjustment, buying power adjustment, the geographic mismatch in the RUS data, pole costs, buried cable and structure separation, structure sharing, structure costs, channel equivalent line costs and many other aspects of GTE's Petition.[15] On these issues, AT&T provides no basis for denying GTE's Petition.

AT&T and MCI WorldCom's mischaracterization or obvious misunderstanding of GTE's arguments on several other areas warrants correction:

Digital Lines. AT&T claims that GTE's argument regarding the Commission's use of copper digital technology to achieve pair cost reductions for multi-line businesses and special access line customers ~~is in~~correct because "HDSL is not within the definition of service for which universal service support is provided."[16] GTE's Petition, however, did not refer to HDSL as a service. GTE's point was that if the Commission achieves cost reductions by provisioning some business lines via copper digital technology, then it must also include all costs attributable to that technology in the

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[15] AT&T Opposition at pp. 12-22.

[16] *Id.* at p. 18.

Model's calculation of line costs. AT&T admits that the Model does not currently include these costs.[17]

Expenses. AT&T does not deny GTE's claim that the use of nationwide expense-to-investment ratio estimates may systematically understate universal service requirements. Instead, AT&T contends that its own analysis shows that low cost areas generally have higher expense-to-investment ratios than high cost areas.[18] Since neither the Commission nor GTE have had an opportunity to examine AT&T's "analysis" -- it was neither submitted in this proceeding nor made available for scrutiny -- AT&T's assertion should be ignored. Alternatively, AT&T regurgitates portions of the Order to support its suggestion that one-time expenses should be removed, but does not refute the methodological flaws pointed out in GTE's analysis. Thus, this defense should also be rejected.

Although GTE pointed out that the Order omits almost all marketing expenses, AT&T commented on only one of those issues, and on that one, misrepresented its effect on costs. GTE advocated the use of 1998 expenses with 1998 line counts so that the numerator and the denominator refer to the same time period. Since the ratios of primary residence lines to total residence lines, and single business lines to total business lines were lower in 1992 than in 1998, the use of 1998 ratios with 1992 expenses will necessarily produce a lower share of marketing expenses, and will not overstate marketing costs, as AT&T claims. The onset of competition has increased the need for marketing expenses in 1998 compared to 1992, but this is not reflected in the

[17] AT&T Opposition at p. 19.

[18] *Id.* at p. 20, fn. 13.

1992 expense data used by the Commission. As a result of this mismatch, the marketing expenses are grossly understated.

Line-to-Trunk Ratios. AT&T claims that, according to Ameritech, the embedded trunk investment data in the FCC Model "likely reflects a 12:1 line-to-trunk ratio," and states that "GTE points to no traffic engineering principles that would lead one to conclude that the service quality from a network engineered in this manner is inadequate."[19] The traffic tables in the inputs worksheet of the FCC Model's switch module confirm GTE's concern. At a 12:1 line-to-trunk ratio, the Model calculates only enough trunk capacity to prevent blocking for non-peak traffic loads. Using the FCC Model assumptions for a 1,000 line office at 4 Centum Call Seconds ("CCS") per line, the offered interoffice load is 2,600 CCS. The Model's traffic tables predict that blocking will exceed the 1% threshold beyond 2,420 CCS. This problem is exacerbated as line-to-trunk ratios and/or usage increase. As GTE has stated, these transport assumptions will produce call blockages because of insufficient interoffice and tandem facilities.[20]

Manhole Costs. While AT&T and MCI WorldCom attempt yet again to convince the Commission that manholes are not used in distribution plant,[21] the Commission has correctly concluded that manhole costs are necessary because underground distribution plant is not uncommon in rural and suburban shopping malls and business parks, and urban areas of towns and cities. In these areas, distribution plant typically consists of backbone cables, which run from the SAI to the outer boundary of the distribution area; branch and stub cables are spliced from multiple directions into the backbone cable at street intersections, building entrances and at structure transition points (e.g., from

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[19] AT&T Opposition at p. 24.

[20] Petition at Attachment C, p. 31.

underground to aerial plant). Manholes are needed at all these splice points. Manholes are also needed in those instances where cable sizes change (i.e., increase or decrease the number of pairs), and where the distribution cable must be extended beyond the maximum cable reel length. Since the Model allows loops up to 18,000 feet, this is not uncommon.

MCI WorldCom also advances AT&T's flawed proposal to use a smaller PenCell PEM 2436 Buried Cable Enclosure to "accommodate the single copper splices that would occur on distribution cable" in place of manholes.[22] As GTE previously showed, it is not appropriate to use the PenCell PEM 2436 Buried Cable Enclosure in an urban underground environment.[23]

Nationwide Input Values. MCI WorldCom misrepresents GTE's objection to the Commission's use of nationwide input values and the ability of those values to reflect economic efficiency in properly sizing the federal universal service fund. GTE advocated the use of study area-specific expense-to-investment ratios to capture better the characteristics of the study area that are missing in nationwide averages. MCI WorldCom implies that an efficient provider would have lower costs due to competitive pressures.[24] However, the correct costs are those that an efficient provider can actually achieve in the real world. The Model assumes a single provider, with 100% market share and associated economies of scale. Thus, no carrier can achieve the low cost levels that MCI WorldCom proposes. If no carrier can achieve them, then the costs are, by definition, not economically efficient, will not send the proper signals to the

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[21] MCI Opposition at p. 7; AT&T Opposition at p. 18, fn.11.

[22] MCI Opposition at p. 7; Universal Service Cost Model Docket, *Comments of AT&T and MCI WorldCom, Inc.* (July 23, 1999) at p. 24.

[23] GTE Opposition at pp. 12-13.

marketplace, and efficient competition in high cost areas will never occur. Economically efficient cost estimates will be produced only if study area-specific expense-to-investment ratios are used.

Road Surrogate Methodology. MCI WorldCom repeats AT&T's claim that dispersing customers evenly along roads (as opposed to using geocoded customer locations) would increase costs.[25] In fact, the opposite may be true. As AT&T and MCI WorldCom demonstrated in an ex parte submission, there is no consistent trend between the results produced by the two data sets.[26] Of the four companies they examined, the road surrogate data produced a lower universal service fund requirement than the geocoded data for NYNEX Maine and NYNEX Vermont, but a higher universal service fund requirement for U S WEST Utah and U S WEST Wyoming. AT&T and MCI WorldCom's plea for a downward adjustment to costs is at odds with their own advocacy and analysis, and should be rejected.

MCI WorldCom further contends that parties were able to review the PNR geocode data "in the same manner that parties were able to review the cost data submitted by the local exchange carriers (LECs), under proprietary agreement."[27] Nothing could be further from the truth. As MCI WorldCom well knows, neither it, AT&T, nor any other interested party has been provided access in this proceeding or any other to the geocoding software and databases used by PNR, or to the method by which PNR manipulates these data to produce the geocode data set. By contrast, interested

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[24] MCI Opposition at p. 8, fn. 11.

[25] AT&T PFR at pp. 5-8; MCI Opposition at pp. 4-6.

[26] Universal Service Cost Model Docket, *AT&T/MCI WorldCom Ex Parte* (May 5, 1999).

[27] MCI Opposition at p. 5.

parties were provided and permitted to retain vendor contracts and other cost data underlying GTE's proposed input values.

CONCLUSION

For the foregoing reasons, GTE's Petition should be granted.

Respectfully submitted,

GTE SERVICE CORPORATION and its affiliated domestic telephone operating companies

By: */s/ Christopher S. Huther*

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February 22, 2000

Its Attorneys

CERTIFICATE OF SERVICE

I, Christopher S. Huther, do hereby certify that on this 22nd day of February, 2000, I have caused a copy of the foregoing Reply of GTE in Support of Its Petition for Reconsideration of the Commission's Tenth Report and Order to be served, by first class mail, upon the attached service list.

/s/ Christopher S. Huther
CHRISTOPHER S. HUTHER

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